



pennsylvania
DEPARTMENT OF ENVIRONMENTAL
PROTECTION

APPENDIX B

Consent Order and Agreement

**Bureau of Air Quality
Department of Environmental Protection**

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**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

United Refining Company	:	1 hour SO ₂ NAAQS
15 Bradley Street	:	Warren Nonattainment Area;
Warren, PA 16365	:	(Portions of Warren County)
	:	

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is entered into this 29TH day of SEPTEMBER 2017 by and between the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) and United Refining Company.

The Department has found and determined the following:

- A. The Department is the agency with the duty and authority to administer and enforce the Air Pollution Control Act, Act of January 8, 1960, P.L. 2119, *as amended*, 35 P.S. §§ 4001-4015 (“APCA”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P. L. 177, *as amended*, 71 P.S. § 510-17 and the rules and regulations promulgated thereunder.
- B. United Refining Company is a Pennsylvania corporation with a business mailing address of 15 Bradley Street, Warren, Pennsylvania 16365-0780, and is a “person” as that term is defined in Section 3 of the APCA, 35 P.S. § 4003 (“United Refining”).
- C. United Refining owns and operates a petroleum refinery located in the City of Warren, Warren County, Pennsylvania (“Facility”).
- D. On December 14, 2012, the Department issued Title V Operating Permit No. 62-00017 to United Refining. The Department subsequently amended United Refining Permit No. 62-00017 on July 9, 2015 (“Permit”).

E. The Facility has multiple Sulfur Dioxide ("SO₂") emitting sources that are all air contamination sources as that term is defined in Section 3 of the APCA, 35 P.S. § 4003, including, but not limited to, the following ("SO₂-emitting Sources"):

<u>Source ID</u>	<u>Source Description</u>	<u>Stack ID</u>	<u>Capacity</u> <i>(For Reference Only)</i>
031, 032, 033	Boiler 1, 2, and 3	S01	60, 60, and 80 mmbtu/hr
034	Boiler 4	S02	269 mmbtu/hr
036	Boiler 5B	S26	80 mmbtu/hr
042	FCC Heater	S04	65.6 mmbtu/hr
044	D.H.T Heater 1	S06	9.0 mmbtu/hr
049	East Reformer Heater	S13	105.0 mmbtu/hr
050	Crude Heater – North	S14A	125.0 mmbtu/hr
050A	Crude Heater – South	S14A	125.0 mmbtu/hr
051	Pretreater Heater	S18	46.0 mmbtu/hr
052	West Reformer Heater	S19	112.0 mmbtu/hr
053	Sat Gas Plant Reboiler	S20	20.0 mmbtu/hr
054	Vacuum Process Heater	S14B	46.0 mmbtu/hr
055	D.H.T Heater 2	S28	35.7 mmbtu/hr
056	Prefractionator Reboiler 2	S29	36.0 mmbtu/hr
057	Volcanic Heater (T-241)	S057	15.0 mmbtu/hr
101A	FCC Unit	S27	1,041 barrels/hr
102	Blowdown System – Combo Flare	S16	
102	Blowdown System – FCC Flare	S17	
105	Middle FCC KVG Compressor	S23	
106	East FCC KVG Compressor	S24	
107	Sat Gas KVG Compressor	S25	
108	Claus Sulfur Plant 2	S30	3.3 ton/hr
108A	Sulfur Plant 2 Hot Oil Heater	S33	5.6 mmbtu/hr
211	Loading Rack Bottom Loading	S211A	576,000 gal/hr
037	Boiler 6	S37	182.78 mmbtu/hr
1010	SMR Hydrogen Plant	S1010A	112.9 mmbtu/hr
C1010	Elevated Process Flare	S1010B	0.789 mmbtu/hr

F. On the exhaust stack of the FCC Unit (Source ID 101A), United Refining operates and maintains a Department-approved continuous emission monitoring system, which measures SO₂ emissions in pounds per hour.

State Implementation Plan (SIP):

G. On June 22, 2010, the United States Environmental Protection Agency (“EPA”) promulgated a revised primary (health-based) National Ambient Air Quality Standard (“NAAQS”) for SO₂ (“2010 1-Hour SO₂ NAAQS”). The rule was published in the *Federal Register* on June 22, 2010 (75 F.R. 35520) and became effective on August 23, 2010. Specifically, the EPA established a new 1-hour standard at a level of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations is less than or equal to 75 ppb.

H. On August 5, 2013, EPA designated the following municipalities in Warren County as being in nonattainment for the 2010 1-Hour SO₂ NAAQS: Conewango Township, Glade Township, Pleasant Township, and the City of Warren (collectively, the “Warren Nonattainment Area”). See 78 F.R. 47191. These designations took effect on October 4, 2013.

I. Pursuant to Section 191 of the Clean Air Act, 42 U.S.C. § 7514, the Commonwealth of Pennsylvania was required to develop and submit to EPA a State Implementation Plan revision (“SIP Revision”) to address the Warren Nonattainment Area within 18 months from the effective date of the 2010 1-Hour SO₂ NAAQS nonattainment designations (i.e., April 4, 2015).

J. On March 18, 2016, the EPA published a final action at 81 F.R. 14736, effective April 18, 2016, finding that Pennsylvania failed to submit a SIP Revision to satisfy nonattainment area planning requirements of the Clean Air Act for the 2010 1-Hour SO₂ NAAQS. EPA’s finding of “failure to submit” triggered mandatory deadlines for EPA to impose sanctions, pursuant to Section 179 of the Clean Air Act, 42 U.S.C. § 7509, if Pennsylvania does not submit a revision to its SIP addressing those requirements, and for the EPA to promulgate a Federal Implementation Plan (FIP) to address any outstanding SIP requirements. If a state has not submitted a SIP Revision and EPA has not found it to be complete on or before 18 months (i.e. October 18, 2017) after the

effective date of the findings, emissions offset sanctions will apply. If a state has not submitted a SIP Revision and EPA has not found it to be complete on or before 24 months (i.e. April 18, 2018) after the effective date of the findings, Federal highway funding sanctions will apply and EPA will be required to promulgate a FIP.

K. Specific statutory requirements for a SIP Revision submittal can be found in Section 172(c) of the CAA, 42 U.S.C. § 7502(c). SIPs must provide an accurate emission inventory of current emissions for all sources of SO₂ within the nonattainment area, a New Source Review permit program, an attainment demonstration using an EPA approved air quality dispersion model, Reasonable Further Progress, a control strategy implementing Reasonably Available Control Measures and Reasonably Available Control Technology, as well as, adequate contingency measures for the affected area.

L. The SIP Revision is subject to a public comment period and opportunity for a public hearing.

M. The Facility is a point source located in the Warren Nonattainment Area with SO₂ emissions that are reasonably expected to contribute to nonattainment of the 2010 1-Hour SO₂ NAAQS in the area.

N. In February 2017, United Refining completed air dispersion modeling to support the attainment demonstration for the Warren Nonattainment Area and submitted to the Department a report entitled, "Air Quality Modeling Report to Support State Implementation Plan Development," concluding that the area would achieve attainment of the 2010 1-hour SO₂ NAAQS by the attainment date if the SO₂-emitting Sources were subject to certain enforceable emissions limitations. The Department has reviewed and concurred with United Refining's air dispersion modeling and emissions limitations by way of a memorandum. United Refining's air dispersion modeling, as well as the Department's memorandum, have been incorporated into the SIP Revision.

ORDER

After full and complete negotiation of all matters set forth in this Consent Order and Agreement and upon mutual exchange of covenants contained herein, the Parties desiring to avoid litigation and intending to be legally bound, it is hereby ORDERED by the Department and AGREED to by United Refining as follows:

1. **Authority.** This Consent Order and Agreement is an Order of the Department authorized and issued pursuant to Sections 4 and 10.1 of the APCA, 35 P.S. §§ 4004 and 4010.1, and Section 1917-A of the Administrative Code, 71 P.S. § 510-17.

2. **Findings.**

a. United Refining agrees that the Findings in Paragraphs A through N are true and correct and, in any matter or proceeding involving United Refining and the Department, United Refining shall not challenge the accuracy or validity of these Findings.

b. The Parties do not authorize any other persons to use the Findings in this Consent Order and Agreement in any matter or proceeding.

3. **Required Action.** To comply with the 2010 1-hour SO₂ NAAQS, United Refining shall be subject to the following conditions:

a. **Emission Restrictions.** United Refining shall comply with the following SO₂ emissions restrictions for the SO₂-emitting Sources:

<u>Source ID</u>	<u>Source Description</u>	<u>Permitted Fuel Types</u>	<u>Emission Limit (lb/hr)</u>
031, 032, 033	Boiler 1, 2, and 3	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	27.42
034	Boiler 4	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	7.21
036	Boiler 5B	Natural Gas	0.24
042	FCC Heater	Refinery Fuel Gas, Natural Gas, Commercial Distillate Fuel Oil	1.10
044	D.H.T Heater 1	Refinery Fuel Gas and Natural Gas	0.10

<u>Source ID</u>	<u>Source Description</u>	<u>Permitted Fuel Types</u>	<u>Emission Limit (lb/hr)</u>
049	East Reformer Heater	Refinery Fuel Gas, Natural Gas, Refinery Fuel Oil, Commercial Distillate Fuel Oil	22.42
050	Crude Heater – North	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	27.78
050A	Crude Heater – South	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	27.78
051	Pretreater Heater	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	11.00
052	West Reformer Heater	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	2.20
053	Sat Gas Plant Reboiler	Natural Gas, Refinery Fuel Gas	0.40
054	Vacuum Process Heater	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	0.80
055	D.H.T Heater 2	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	6.36
056	Prefractionator Reboiler 2	Refinery Fuel Oil, Natural Gas, Refinery Fuel Gas, Commercial Distillate Fuel Oil	5.37
057	Volcanic Heater (T-241)	Refinery Fuel Gas, Natural Gas	0.30
101A	FCC Unit	N/A	131.50
102	Blowdown System – Combo Flare	Blowdown	0.40
102	Blowdown System – FCC Flare	Blowdown	0.10
105	Middle FCC KVG Compressor	Refinery Fuel Gas, Natural Gas	0.14
106	East FCC KVG Compressor	Refinery Fuel Gas, Natural Gas	0.14
107	Sat Gas KVG Compressor	Refinery Fuel Gas, Natural Gas	0.10
108	Claus Sulfur Plant 2	N/A	12.00
108A	Sulfur Plant 2 Hot Oil Heater	Refinery Fuel Gas, Natural Gas	0.10
211	Loading Rack Bottom Loading	Natural Gas	0.81
037	Boiler 6	Refinery Fuel Gas, Natural Gas	4.60
1010	SMR Hydrogen Plant	Natural Gas/ PSA offgas	0.099
C1010	Elevated Process Flare	Natural Gas/ PSA offgas	0.47

b. For the SO₂-emitting Sources that burn fuel oil (“Oil-Burning Sources”),

United Refining shall burn only the following types of fuel oil:

- i. Refinery fuel oil that does not exceed 0.5 percent sulfur by weight or 5,000 parts per million; and
 - ii. Commercial distillate fuel oil, also known as No. 2 and lighter oil, that does not exceed 0.05 percent sulfur by weight or 500 parts per million.
- c. United Refining shall monitor and maintain records of the following:
- i. Quantity and heat content of each type of fuel used on a daily basis for each SO₂-emitting combustion source;
 - ii. Process Feed Rate and Production Rate for Non-Combustion Sources;
 - iii. Hours of operation and emissions for each month and on a 12-month rolling basis; and
 - iv. Results of a gas chromatograph analysis of the refinery fuel gas to be conducted twice each week to determine the specific heat content for refinery fuel gas.
- d. Using the data collected in Paragraph 3.c., above, emissions shall be calculated using mass balance calculations (fuel flow * sulfur percent by weight * unit conversion) for combustion sources. For non-combustion sources (Source 101A, 108, and 211), SO₂ emissions will be calculated using a Department approved Continuous Emission Monitoring System ("CEMS") analyzer, stack test, or emission rate as found in the AP-42, or *Emission Estimation Protocol for Petroleum Refineries*, and feed or production rates (i.e. Ltons processed at SRU 2 * lb/Lton emission rate from most recent stack test).
- e. United Refining's FCC SO₂ CEMS unit will be used to calculate SO₂ emissions from the FCC stack.
- f. United Refining shall calculate the monthly and annual emissions of SO₂ for all SO₂-emitting Sources.
- g. Any quarter with valid data less than 95% will require United Refining to submit a notification with its quarterly Continuous Emission Monitor Report, including an explanation of the data deficiency and any corrective measures implemented to correct the data deficiency.

h. United Refining shall conduct emission testing for each of the SO₂-emitting Sources at least once every 5 years.

i. United Refining shall sample the fuel oil burned by the Oil-Burning Sources not less than three times per week if fuel oil is being combusted. If the percent sulfur by weight exceeds 0.5% or 5,000 ppm for refinery fuel oil, or 0.05% or 500 ppm for commercial distillate fuel oil during periods of fuel oil combustion, United Refining shall submit the results to the Department within five business days after the obtaining the analytical results. United Refining shall keep the results for at least five years. This file shall be made available to the Department upon request.

j. United Refining shall use De-SO_x additive, or an equivalent additive, for Source 101A (FCC Unit) to maintain the SO₂ emissions at or below 131.50 lb/hr.

k. United Refining shall use their SO₂ CEMS to demonstrate compliance with the 131.50 lb/hr limit on a 1-hour average.

l. ***Contingency Measures.***

i. At any time following the execution of this Consent Order and Agreement, if the SO₂ emissions from the Source 101A (FCC Unit) exceed the validated pounds per hour (lb/hr) permitted emission limit listed in Paragraph 3.a., above, and as reported in accordance with "Continuous Source Monitoring Manual, Revision No. 8," Document Number: 274-0300-001, effective July 17, 2018, the Facility shall perform a system audit of the FCC Unit's SO₂ control additive system ("FCC Unit Systems Audit"). The FCC Unit Systems Audit will consist of applicable components necessary to inject the proper amount of De-SO_x additive which may include the additive meter, PLC logic control system, the Delta V communication interface, the SO₂ CEMS analyzer and communications to the operators interface. Within 45 days after the date of the exceedance, United Refining shall submit to the Department a written report detailing the operating parameters of the FCC Unit and its emissions control system.

ii. At any time following the execution of this Consent Order and Agreement, if the Department's Warren Overlook SO₂ ambient monitor, located within the Warren Nonattainment Area, measures a third daily max 1-hour SO₂ concentration "event" within a calendar year, after validation of the ambient station's data, the Department will notify United Refining in writing. An "event" is defined as a day

where the maximum 1-hour SO₂ concentration for any hour is greater than 75 ppb. However, where back-to-back (2 days) event-days occur, these will be counted as only one event toward the triggering third high event. If there are 3 days in a row, that would count as 2 events. With respect to the criteria outlined in the four preceding sentences, a third daily max 1-hour SO₂ concentration event at the Department's Warren Overlook ambient SO₂ monitor in the Warren Nonattainment Area will be referred to herein as the "Ambient Action Level". Furthermore, the Department will make un-validated monitoring data, ambient SO₂ concentrations and ambient temperature, from the Warren Overlook site available to United Refining on a real-time basis with no more time lag than one hour, so as to provide an early indication of possible high ambient monitored values in order to enhance United Refining's ability to identify any concurrent unusual SO₂ events.

- iii. Within 90 calendar days after the date of the Department's written notice pursuant to Paragraph 3.1.ii., above, United Refining shall submit to the Department an investigative report, herein referred to as "Ambient Action Level Report," which will identify:
 - a. If United Refining was in compliance with all of its permitted SO₂ emission limits during the time period of any of daily maximum 1-hour events that make up the Ambient Action Level and, if not, whether returning to compliance levels likely resolved the Ambient Action Level. If operational problems are identified as the source of excess emissions which resulted in a monitored value above the Ambient Action Level, then further investigation under Paragraphs 3.1.iii.b., 3.1.iii.c., 3.1.iii.d., and 3.1.iii.e. is not required. However, a report must still be filed with the Department which identifies the emission units that were not in compliance, the reason for the non-compliance, and if additional measures have or will be implemented to reduce the possibility of future non-compliance by these emission units.
 - b. If no emissions exceedances are determined by United Refining, then the company must conduct an analysis of the most likely origin of the emission sources that were the cause of the maximum daily 1-hour triggering events of the Ambient Action Level. If it is determined that some other party (or parties), is the likely source of any of the maximum daily 1-hour triggering events that caused triggering of the Ambient Action Level, United Refining must submit this analysis, which may include a meteorological trajectory analysis utilizing HYSPLIT, or equivalent; a meteorological modeling analysis utilizing BUFKIT or equivalent; an air dispersion modeling analysis utilizing AERMOD, SCIPUFF, or equivalent; a

photochemical modeling analysis to assess long-range transport utilizing CMAQ, CAMx, or equivalent; or a culpability analysis utilizing the PMF source apportionment tool or equivalent, to the Department. If United Refining is identified as the source of the SO₂ emissions that lead to all of the maximum daily 1-hour monitored values above the SO₂ Ambient Action Level, then United Refining must complete requirements under Paragraphs 3.1.iii.c., 3.1.iii.d., and 3.1.iii.e.

- c. If United Refining was in compliance with all SO₂ emission limits and no other parties are indicated as the source of SO₂ emissions, then United Refining will perform an assessment to determine if changes in facility operations, if any, would be needed to avoid a violation of the SO₂ NAAQS.
- d. The Ambient Action Level Report shall include an analysis utilizing the appropriate model(s) outlined in Paragraph 3.1.iii.b. on the date(s) of when the monitored value was greater than the Ambient Action Level. The analysis will include appropriate data from any of the following: United Refining's meteorological tower, the Department's Warren Overlook (AIRS ID 421230004) meteorological tower, Pittsburgh International Airport's radiosonde data, and/or prognostic meteorological data.
- e. If the Ambient Action Level Report concludes that SO₂ emissions from one or more SO₂-emitting Sources at the Facility caused the Ambient Action Level, the Ambient Action Level Report shall also include proposed changes in facility operations, if any, that would be needed in order to avoid a violation of the SO₂ NAAQS.

m. The Contingency Measures listed in Paragraph 3.1., above, shall be incorporated into United Refining's Title V permit for the Facility.

n. As part of the Department's request to the EPA that the Warren Nonattainment Area be redesignated as in attainment, the Contingency Measures listed in Paragraph 3.1., above, and incorporated into United Refining's Title V permit for the Facility, shall be reviewed by the Department and United Refining and may be renegotiated in good faith to support the designation of attainment.

4. ***Submission of Documents.*** With regard to any document that United Refining is required to submit pursuant to this Consent Order and Agreement, the Department will review the document and will approve or disapprove the document, or portion thereof, in writing. If the Department disapproves the document, or any portion of the document, United Refining shall submit a revised document to the Department that addresses the Department's concerns within a time specified by the Department. The Department will approve or disapprove the revised document in writing. Upon approval by the Department the document shall become a part of this Consent Order and Agreement for all purposes and shall be enforceable as such.

5. ***Stipulated Civil Penalties.***

a. If United Refining fails to comply in a timely manner with any provision of Paragraph 3.l., above, United Refining shall be in violation of this Consent Order and Agreement and, in addition to other applicable remedies, shall pay a civil penalty in the amount of \$500 per day that any of the provisions of Paragraph 3.l. remain unfulfilled.

b. Stipulated civil penalty payments shall be payable within 30 days of notification by the Department that they are due. Payments shall be made by corporate check or the like payable to the Commonwealth of Pennsylvania - Clean Air Fund and sent to the Regional Air Quality Program Manager, Pennsylvania Department of Environmental Protection, 230 Chestnut St., Meadville, PA 16335.

c. Any payment under this paragraph shall neither waive United Refining's duty to meet its obligations under this Consent Order and Agreement nor preclude the Department from commencing an action to compel United Refining's compliance with the terms and conditions of this Consent Order and Agreement. The payment resolves only United Refining's liability for civil penalties arising from the violation of this Consent Order and Agreement for which the payment is made.

6. ***Additional Remedies.***

a. If United Refining fails to comply with any provision of this Consent Order and Agreement, the Department may, in addition to the remedies prescribed herein, pursue any remedy available for a violation of an order of the Department, including an action to enforce this Consent Order and Agreement.

b. The remedies provided by this paragraph and Paragraph 4 are cumulative and the exercise of one does not preclude the exercise of any other. The failure of the Department to pursue any remedy shall not be deemed to be a waiver of that remedy. The payment of a stipulated civil penalty, however, shall preclude any further assessment of civil penalties for the violation for which the stipulated civil penalty is paid.

7. ***Reservation of Rights.***

a. The Department reserves the right to require additional measures to achieve compliance with applicable law. United Refining reserves the right to challenge any action which the Department may take to require those measures.

b. This Consent Order and Agreement shall not be considered as a limitation or abridgment of the Department's rights and duties to take action as necessary to implement emergency control strategies under Section 6.2 of the APCA, 35 P.S. § 4006.2, nor United Refining's rights to challenge such actions.

c. This Consent Order and Agreement does not grant a variance from any requirement of the APCA, the Clean Air Act, 42 U.S.C. § 7401 et seq., or any regulations promulgated under either of these statutes; nor does it purport to modify any requirement of Pennsylvania's State Implementation Plan as approved under the Section 110 of the Clean Air Act, 42 U.S.C. § 7410.

8. ***Liability of Operator.*** United Refining shall be liable for any violations of this Consent Order and Agreement, including those caused by, contributed to, or allowed by its officers, agents, employees, or contractors.

9. ***Transfer of Site.***

a. The duties and obligations under this Consent Order and Agreement shall not be modified, diminished, terminated, or otherwise altered by the transfer of any legal or equitable interest in the Facility or any part thereof.

b. If United Refining intends to transfer any legal or equitable interest in the Facility which is affected by this Consent Order and Agreement, United Refining shall serve a copy of this Consent Order and Agreement upon the prospective transferee of the legal and equitable interest at least 30 days prior to the contemplated transfer and shall simultaneously inform the Northwest Regional Office of the Department of such intent pursuant to Paragraph 10, below.

c. The Department in its sole discretion may agree to modify or terminate United Refining's duties and obligations under this Consent Order and Agreement upon transfer of the Facility. United Refining waives any right that it may have to challenge the Department's decision in this regard.

10. ***Correspondence with Department.*** All correspondence with the Department concerning this Consent Order and Agreement shall be addressed to:

Eric A. Gustafson
Regional Air Quality Program Manager
Pennsylvania Department of Environmental Protection
230 Chestnut St.
Meadville, PA 16335
Phone: (814) 332-6940
Fax: (814) 332-6121

11. ***Correspondence with United Refining.*** All correspondence with United Refining concerning this Consent Order and Agreement shall be addressed to:

Tim Ruth
United Refining Company
15 Bradley St.
Warren, PA 16365
Phone: (814)723-1500

United Refining shall notify the Department whenever there is a change in the contact person's name, title, or address. Service of any notice or any legal process for any purpose under this Consent Order and Agreement, including its enforcement, may be made by mailing a copy by first class mail to the above address.

12. **Severability.** The paragraphs of this Consent Order and Agreement shall be severable and should any part hereof be declared invalid or unenforceable, the remainder shall continue in full force and effect between the Parties.

13. **Entire Agreement.** This Consent Order and Agreement shall constitute the entire integrated agreement of the Parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for purposes of determining the meaning or extent of any provisions herein in any litigation or any other proceeding.

14. **Attorney Fees.** The Parties shall bear their respective attorney fees, expenses, and other costs in the prosecution or defense of this matter or any related matters, arising prior to execution of this Consent Order and Agreement.

15. **Modifications.** No changes, additions, modifications, or amendments of this Consent Order and Agreement shall be effective unless they are set out in writing and signed by the Parties hereto.

16. **Titles.** A title used at the beginning of any paragraph of this Consent Order and Agreement may be used to aid in the construction of that paragraph, but shall not be treated as controlling.

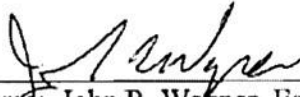
17. **Decisions Under Consent Order and Agreement.** Except any decision made under Paragraph 9.c., above, any decision which the Department makes under the provisions of this Consent Order and Agreement, including a notice that stipulated civil penalties are due, is intended to be neither a final action under 25 Pa. Code § 1021.2, nor an adjudication under 2 Pa. C.S. § 101. Any objection which United Refining may have to the decision will be preserved until the Department enforces this Consent Order and Agreement.

18. **Termination.** United Refining's obligations, but not the Findings, of this Consent Order and Agreement, shall terminate when: 1) EPA approves the SIP Revision containing all of United Refining's obligations under Paragraph 3, above; 2) United Refining's obligations under Paragraph 3, above, have been incorporated into an air quality operating permit for the Facility; and 3) United Refining has paid all of the penalties that may be due under Paragraph 5, above.

19. **Counterparts.** This Consent Order and Agreement may be signed in counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. Facsimile signatures or those transmitted by electronic means shall be valid and effective.

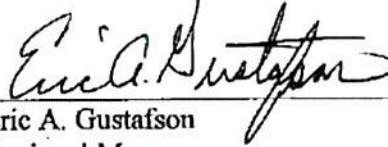
IN WITNESS WHEREOF, the Parties hereto have caused this Consent Order and Agreement to be executed by their duly authorized representatives. The undersigned representatives of United Refining certify under penalty of law, as provided by 18 Pa. C.S.A. § 4904, that they are authorized to execute this Consent Order and Agreement on behalf of United Refining; that United Refining consents to the entry of this Consent Order and Agreement as a final ORDER of the Department; and that United Refining hereby knowingly waives its rights to appeal this Consent Order and Agreement and to challenge its content or validity, which rights may be available under Section 4 of the Environmental Hearing Board Act, the Act of July 13, 1988, P.L. 530, No. 1988-94, 35 P.S. § 7514; the Administrative Agency Law, 2 Pa. C.S.A. § 103(a) and Chapters 5A and 7A; or any other provision of law.

**FOR UNITED REFINING
COMPANY:**



Name: John R. Wagner, Esquire
Executive Vice President, General
Counsel, and Secretary
United Refining Company

**FOR THE COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**



Eric A. Gustafson
Regional Manager
Air Quality Program
Northwest Region



Carl D. Ballard
Assistant Counsel